



**NAVAJO NATION
DIVISION OF COMMUNITY DEVELOPMENT**

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Future of To’Nanees’Dizi Chapter topic of town hall meeting



Arbin Mitchell, director for Division of Community Development, said the western agency Local Governance Support Center is going to begin the reconciliation of chapter financial records, property inventory, chapter operation payments and development of a new budget to get To’Nanees’Dizi Chapter back on track. (Photo by Rick Abasta)

The town hall meeting on Feb. 17 regarding the To’Nanees’Dizi Chapter drew a large number of community members to listen to the status of the chapter. Some people were seated and others stood, lining the walls of the chapter. Others still, stood outside the door and took note of the proceedings.

Joshua Butler, council delegate for To’Nanees’Dizi Chapter, began with introductions of staff members from the Local Governance Support Center (LGSC), Department of Justice (DOJ) and Division of Community Development (DCD). Arbin Mitchell, director of DCD, was joined on stage with Regina Allison of the western agency LGSC and attorney Brian Lewis of DOJ.

Butler said Allison and her staff were instrumental in guiding him through the process regarding the chapter closure and reopening. “We cannot go into full details because it is a personnel matter and it’s confidential,” Butler said.

He explained that four of the five chapter officials of To’Nanees’Dizi Chapter were removed by the Office of Hearings and Appeals – the result of a one-year investigation by the Ethics and Rules Office – which was initiated by chapter secretary-treasurer Charlene Nez, the last remaining chapter official. “During the months of Oct. to Nov., four of the officials were removed,” Butler said. “We currently have two officials that have appealed and are filing grievances to the Navajo Nation Supreme Court.”

The two officials from the Council of Naat’aanii appealing their removal are former president and vice president, Max Goldtooth and Robert Yazzie. As a result of their grievances, the chapter cannot hold an election for the two positions until clarification from DOJ allows the vote to take place. The other two officials, Helen Morez Herbert and Jimmy Holgate remain out of office.

Nez agreed to repay \$20,000 back to the Navajo Nation through payroll deduction, at a rate of 25 percent of her paycheck. She

will serve no more than 60 days in the interim, which is scheduled to end on April 7, or until the five officials are elected and seated into office by special election.

Butler said Nez would still serve as secretary-treasurer to keep the chapter operational in the interim. "I'm happy she's still here to get the chapter back on track. If it wasn't for her, we would have never known what's going on in our chapter," he said.

On Feb. 7, Nez served termination notices in Window Rock to executive manager Priscilla Littlefoot and executive assistant Noreen Parrish. The chapter was closed on the same day as a precaution by the LGSC because of the risk of documents and equipment being removed from the chapter by the former employees.

The chapter reopened on Feb. 10 in a limited capacity, only issuing wood permits and sale of wood in the chapter yard. Presently, the LGSC has administrative control over To'Nanees'Dizi Chapter.

Nez said she was elected in Nov. 2008 and grew up west of Tuba City on a six-acre farm with her grandparents. She served as an educator for over 30 years and is the mother of three sons. Nez said the Council of Naat'aanii brought negative attention to the chapter. "First of all, because of the bonuses that the chapter officials and I took," Nez said. "Being told it was fine to do so, although we knew this was wrong."

She said that was just the tip of the iceberg and it was her fiscal responsibility under the Five Management System to take care of the records at the chapter. "I was not privy to the records, I was held back on a lot of things," Nez said.

After photocopying two checks, Nez said she took them to the Ethics and Rules Office and filed charges in June 2010. The Ethics and Rules Office did not complete their investigation until March 2011.

Funds channeled into the chapter include general funds, sales taxes, land claims, scholarships and the Local Governance Act (LGA) Trust Funds. "There's a lot of money coming in and we need to be held accountable for it," Nez said. As an LGA certified chapter, To'Nanees'Dizi Chapter also has the authority to collect funds from their local sales tax and hotel occupancy tax, at six and eight percent, respectively.

Nez said the chapter's alternative form of government gave a lot of power to just five individuals on the Council of Naat'aanii. "Too much power that we took too much from you all," she added. "We are still finding out more information and it's real scary."

Arbin Mitchell addressed the chapter audience next about DCD's role as oversight of all 110 chapters and the agency LGSC offices. Providing his presentation in Navajo out of respect for the many elders in attendance, Mitchell said DCD works chapters through the LGSCs. He said upon LGA certification, chapters are granted authority over their chapter finances.

However, they are still accountable as any other tribal depart-



Charlene Nez, secretary-treasurer for the Council of Naat'aanii, said the officials knew it was wrong to take chapter funds in the form of bonuses. "We took too much from you all," Nez said. (Photo by Rick Abasta)

ment, to provide accountability for how the funds are utilized. "We kept requesting for financial reports from the chapter," Mitchell said. "We have to provide those reports to the Controller and the Office of Management and Budget, who monitor these funds." He said DCD struggled to get this information through the LGSC, which made countless requests to To'Nanees'Dizi Chapter to provide financial records.

Mitchell spoke about the enactment of the LGA in 1998 as Title 26 and the FMS that is utilized by chapters that achieve LGA certification. Fiscal accountability, records management, personnel supervision, property protection and procurement policies are what comprise the FMS, he explained.

"LGA recognizes governments at the local level, the chapter level, with respect to Navajo law, with respect to Navajo customs and traditions."

As a certified chapter, To'Nanees'Dizi conducted public hearings for approval of their FMS, Community Land Use Planning Committee and alternative form of government, the Council of Naat'aanii. That was your opportunity to speak out, he said.

"LGA recognizes governments at the local level, the chapter level," Mitchell said. "With respect to Navajo law, with respect to Navajo customs and traditions. LGA certification was designed to empower communities at the local level, he said, to take their destinies in their own hands and determine where best to utilize funds to the benefit of their chapter. Mitchell clarified the purpose of the funds for the chapter and the requirements to report back to the LGSC.

Because of the potential for financial mismanagement, he said DCD is currently amending the LGA, or Title 26, so there are more penalties in the legislation to deal with financial malfeasance, misfeasance and nonfeasance. The proposed amendments are the first of its kind since the legislation was enacted in 1998. DCD recently completed public hearings in all five agencies of

the Navajo Nation regarding these proposed amendments. New developments in the amendments include view-only access to chapter bank accounts for the LGSC offices and the Office of the Controller, a one-page monitoring tool that lists questions to be asked at the chapter planning meetings, with regard to chapter funds. Also included in the amendments is mandatory Sage accounting software.

“The law says to work with the people,” Mitchell said. “When something like this happens, I ask, ‘Where were the people?’” He said the chapter members must participate and know what their chapter officials and staff are doing with their chapter funds.

DOJ attorney Brian Lewis said he represents the Navajo Nation as a whole, which makes interpreting the legalities of this case particularly challenging. “Here, this involves trying to balance what the chapter’s interests are against DCD’s interests and everyone else between the central government and the local government,” he said. “To be quite frank, the law’s not quite clear here.”

He said DOJ’s involvement came late in the game and that DOJ decided to act because of the complex web of politics, personal relationships, criminal and civil matters involved. “The only thing I saw was there was a lack of transparency in information flowing out to the people and the government agencies,” Lewis said. He noted that To’Nanees’Dizi Chapter did well financially, and received millions of dollars from taxes and business site revenues coupled with federal, state and tribal funding.

“The first action that I brought was only to open up the chapter’s availability to the chapter’s records and information, that’s it,” Lewis said. “The court issued a permanent injunction enjoining two persons from simply getting in the way, blocking information or hiding it.” He said when Title 26 was enacted, there was no way legislators could have foreseen what’s transpired and incorporated language into the law.

DCD will work with the western agency LGSC to reconcile financial records like the To’Nanees’Dizi Chapter bank statements and other supporting documents. An inventory of chapter property will be conducted, along with development of a new budget and chapter operation payments.

“We will provide public information on the policy changes and laws from the LGA amendments,” Mitchell said. “We will share information from the budget instruction manual and the DCD reorganization to provide more resources to the LGSC offices.”

Information: www.nndcd.org

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Joshua Butler, council delegate for To’Nanees’Dizi Chapter, applauded the courage of Charlene Nez for stepping forward and being the “whistleblower” for the mismanagement of chapter funds. (Photo by Rick Abasta)



Department of Justice attorney Brian Lewis said the case involving the To’Nanees’Dizi Chapter is a complex web of politics, personal relationships, criminal and civil matters. Lewis noted Navajo law is not quite clear in this particular instance of chapter instability. (Photo by Rick Abasta)



The To’Nanees’Dizi Chapter was packed to capacity for the town hall meeting on Feb. 17. More people stood outside the doorway and listened to proceedings. (Photo by Rick Abasta)